

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Phyllis A. Reha
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Complaint by the City of
Redwood Falls against Redwood County
Telephone Company

ISSUE DATE: July 22, 2003

DOCKET NO. P-424/C-03-897

ORDER ASSERTING JURISDICTION AND
REQUIRING ANSWER

PROCEDURAL HISTORY

On June 11, 2003, the City of Redwood Falls (the City) filed a complaint against Redwood County Telephone Company (the Telephone Company) and mailed a copy to the Telephone Company, the Minnesota Department of Commerce, and the Residential Utilities Division of the Office of the Attorney General. The Telephone Company has not yet responded to the Complaint.

The Commission met on July 17, 2003 to consider this matter.

FINDINGS AND CONCLUSIONS

I. THE ISSUES

Under Commission rules, a respondent does not have to answer a complaint until the Commission finds that it has jurisdiction over the complaint and that there are reasonable grounds to investigate. Minn. Rules, Part 7829.1800, subp. 1. If the Commission makes those two findings, it serves the complaint on the respondent, requires an answer, and handles the case under the formal complaint procedures of Minn. Rules, part 7829.1800 *et seq.*

The threshold issues in this matter, therefore, are whether the Commission has jurisdiction over the Redwood Telephone Company and the conduct alleged, and if so, whether those allegations merit investigation.

II. COMMISSION ANALYSIS AND ACTION

A. Jurisdiction

The Commission clearly has jurisdiction over this matter. Minn. Stat. § 237.081, subd. 1a requires and authorizes the Commission to investigate and resolve complaints brought by the governing body of a political subdivision (such as the City of Redwood Falls) against telephone companies (such as Redwood County Telephone Company) and Minn. Stat. §§ 216A.05 and 237.081 require and authorize the Commission to enforce the telecommunications statutes. The City has alleged that the Telephone Company has violated several Minnesota telecommunications statutes and Commission rules.

Specifically, the City has alleged that the Telephone Company 1) has not complied with Minn. Stat. §§ 237.162 and 237.163, which provide for the use and regulation of the public right-of-way, 2) has refused to engage in good faith discussions designed to reach mutually acceptable resolution of its obligations under Minn. Rules, Part 7811.2210, subpart 12, and 3) has willfully disregarded the limits of its certificate of authority in violation of Minn. Stat. § 237.16, subd. 4.

B. Reasonable Cause to Investigate

To date, the record contains only the City's Complaint, but the City's allegations are serious and apparently straightforward and the Telephone Company's responses to the City, as recounted in the City's Complaint, raise questions regarding the Company's good faith. These allegations clearly merit investigation.

At the hearing on this matter, the Company requested that the Commission suspend action on this matter, pending 1) the City's further consideration of this matter at an August City Council Meeting and a possible resolution of the matter resulting from that meeting and 2) the Telephone Company's petition to the Commission requesting increased territorial authority. The Commission declines to suspend action on the Complaint due to the history of failed attempts to resolve these issues, as recounted in the Complaint. In light of that history, delaying this proceeding would not be prudent. In addition, it does not appear that the issues potentially to be resolved at the August City Council Meeting include the City's allegation that the Telephone Company has been and is currently providing uncertificated service in the Redwood Exchange.

In these circumstances, the Commission finds that there are reasonable grounds to investigate the City's allegations and will proceed to serve the Complaint on the Company and require it to file an Answer to the Complaint within 20 days of service of the Complaint and Order, as provided for in Minn. Rules, Part 7829.1800, subp. 2.

The Commission will so order.

ORDER

1. With this Order, Redwood County Telephone Company (the Telephone Company) is formally served with a copy of the Complaint filed by the City of Redwood Falls (the City). Copy attached.¹
2. Within 20 days of the date of this Order, the Telephone Company shall
 - file an Answer to the attached complaint, stating that it has granted the relief complainant requests or responding to the allegations of the complaint, and
 - comply with the service requirements of Minn. Rules, part 7829.1800.
3. If the Telephone Company alleges in its Answer that it has granted the relief requested by the City, the City shall file a Reply admitting or denying that the relief has been granted. If a Reply is thus required, the City shall serve it on the respondent (Telephone Company), the Department of Commerce, and the Residential Utilities Division of the Office of the Attorney General within 20 days of receiving the Answer. If a Reply is thus required and none is filed, the Commission is to dismiss the Complaint.²
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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¹ The Commission notes that the City has previously provided a copy of the Complaint to Telephone Company, as required by Minn. Rules, Part 7829.1700, subd. 2.

² See Minn. Rules, Part 7829.1800, subd. 3.